



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**RQ-3**

**December 30, 1999**

Donna M. Anderson, Treasurer  
National Republican Congressional  
Committee Expenditures  
320 First Street  
Washington, DC 20003

**Identification Number:** C00075820

**Reference:** February Monthly (1/1/99-1/31/99), March Monthly (2/1/99-2/28/99),  
April Monthly (3/1/99-3/31/99), May Monthly (4/1/99-4/30/99) and  
June Monthly (5/1/99-5/31/99) Reports

**Dear Ms. Anderson:**

On November 3, 1999, November 10, 1999 and November 24, 1999, you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your November 15, 1999, November 22, 1999 and November 23, 1999, responses are incomplete because you have not provided all the requested information. For these responses to be considered adequate, the following information is still required.

-While the Commission notes the accurate reporting of the corporate in-kind contributions by the federal account, you have failed to properly disclose the original receipt and disbursement of these in-kinds by your non-federal account(s). Please refer to the following reporting requirements for National Party Committees:

In accordance with 11 CFR 104.8(e), a National Party Committee shall disclose in a memo Schedule A, information about each individual, committee, corporation, labor organization, or other entity that donates in excess of \$200 in a calendar year to the committee's non-federal account(s). Furthermore, in accordance with 11 CFR 104.9(c), a National Party Committee shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or

value in excess of \$200 within the calendar year is made from the committee's non-federal account(s), together with the date, amount and purpose of such disbursement.


You should amend these reports to fully disclose the corporate in-kind contributions by your non-federal account(s).

-The event year-to-date totals for several events and administrative expenses are still incorrect on Schedule H4. This appears to result from the omission of the corporate in-kind contribution amounts from the event year-to-date totals. The in-kind contributions should be included in the totals for the appropriate event(s) (see enclosed pages from the Campaign Guide for Political Party Committees). Please amend these reports and any subsequent reports to clarify the event year-to-date totals.

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Andrea Wilkins on our toll-free number (800) 424-9530 or our local number (202) 694-1130.

Sincerely,



*John D. Gibson*  
John D. Gibson  
Assistant Staff Director  
Reports Analysis Division

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Enclosure

## 11. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

### Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

#### Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

#### Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this "escrow" arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

#### Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

## Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser ("Chairman's Gala"). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

### Required Forms

- Schedule H3—Transfer from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

### Schedule H3—Receipt of In-Kind Donation

The committee reports the receipt of the in-kind donation as a transfer from the nonfederal account for the "Chairman's Gala" fundraiser. The date used here is the date the committee received the flowers.

## RECEIPT OF IN-KIND DONATION (H3)

NAME OF ACCOUNT Nonfederal Account		DATE OF RECEIPT 10/1/96	\$5,000.00
		BREAKDOWN OF TRANSFER RECEIVED	
	SPONSORED GIVE AMOUNT	DIRECT FUND- RAISING AMOUNT	EXPENDITURE ACTIVITY-CORRECT CANDIDATE SUPPORT
1	Total Aggregatable/Total Date		
2	Direct Fundraising (See Form 4400 for Details)		
3	Chairman's Gala	\$5,000.00	
4			
5			

The Schedule H3 shows the nonfederal account's receipt of the \$5,000 in-kind donation of flowers on October 1.

### "Disbursement" of In-Kind Donation (H4)

Like *in-kind contributions*, *in-kind donations* must be reported as both receipts and disbursements so as not to inflate the cash-on-hand balance. (The disbursement side reflects the use or "expenditure" of the resources.) Schedule H4 is used for the disbursement entry, which shows the \$5,000 in-kind donation as a 100 percent nonfederal disbursement. The donor's name and address is disclosed in the box generally used for payee.

### Transfer from Federal Account (H4)

The second entry on Schedule H4 shows the contemporaneous transfer of \$2,500 (the federal share of the donation) from the federal account to the nonfederal account. The explanation of the transfer is described in the "Purpose" box, with a reference to the previous entry.

### Alternative Reporting Method

To minimize entries and avoid duplication, a committee may use alternative methods to report transactions relating to *in-kind donations*.

The committee may use one entry on Schedule H3 to show the receipt of all *in-kind donations* made within the same reporting period for a particular fundraising program or event (or administrative activity).

The committee may also use one entry on Schedule H4 to show total federal payments (transfers) made on the same day for the federal share of *in-kind donations*.

#### Example

A committee receives two *in-kind donations* from prohibited sources for a mixed federal/nonfederal fundraising event, "July Fundraiser":

- Invitations donated by XYZ Printers, Inc. (value: \$3,000) received on July 1; and
- Balloons donated by ABC Balloons, Inc. (value: \$1,000) received on July 15.

The fundraising ratio for "July Fundraiser" is 50 percent federal, 50 percent nonfederal. The federal account transfers its \$2,000 share of the two donations on July 1.

## DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

DISBURSEMENT SCHEDULE H4		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE 1 OF 1	
FOR LINE 24					
NAME OF COMMITTEE State Party Committee					
A. FULL NAME, MAILING ADDRESS & ZIP CODE Flowers by Feder, Inc. 500 Main Highway City, State ZIP	PURPOSE/REASON Flowers for Chairman's Gala	DATE 10/1/98	TOTAL AMOUNT \$5,000.00 In-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$5,000.00
DISBURSEMENT FROM FEDERAL ACCOUNT					
B. FULL NAME, MAILING ADDRESS & ZIP CODE State Party Committee/ Nonfederal Account 445 Democracy Blvd. City, State ZIP	PURPOSE/REASON Transfer of federal share (see above)	DATE 10/1/98	TOTAL AMOUNT \$2,500.00	FEDERAL SHARE \$2,500.00	NON-FEDERAL SHARE 0

The first entry shows the "disbursement" of the \$5,000 *in-kind donation* by the nonfederal account. The second entry shows the federal account's transfer of its share of the donation (50 percent or \$2,500) to the nonfederal account.

### Schedule H3—Receipt of In-Kind Donations

The committee uses one entry on Schedule H3 to show the total *in-kind donations* for "July Fundraiser" received during the reporting period. The "date of receipt" shows the period during which the committee received the contributions. The "July Fundraiser" entry cross references the Schedule H4 entries showing the "disbursement" of the donations and the identity of the contributors.

## RECEIPT OF IN-KIND DONATIONS (H3)

NAME OF ACCOUNT Nonfederal Account		DATE OF RECEIPT 7/1-7/15/98		TOTAL AMOUNT \$4,000.00	
		DISBURSEMENT OF TRANSFER RECEIVED			
		NON-FEDERAL SHARE	FEDERAL SHARE		
1. Total Disbursements/Type/Date					
2. Fundraising Event/Event/Date					
a. July Fundraiser					
b. \$3,000 p. 1, \$1,000 p. 2 and 3					
c.					
d.					

The \$4,000 *in-kind transfer* represents a \$3,000 donation received on July 1 and a \$1,000 donation received on July 15. The entry notes the Schedule H4 entries where information on the donations is available.

**Schedule H4—"Disbursement" of Donations; Federal Transfer**  
Schedule H4 shows the "disbursement" of the two in-kind donations by the nonfederal account, each entry identifying the donor and the dates the donations were received.

The third entry shows the federal account's payment for its 50 percent share of the two donations and the date of the transfer to the nonfederal account. The entry refers to the previous two entries to show the transfer relates to those transactions.

### "Escrow" Transfer

Advance transfers from the federal account to the nonfederal account to pay the federal share of anticipated in-kind donations are reported on Schedule H3. If known, the particular activity (fundraising program/event or administrative) to which the transfer applies should be noted. If the corresponding in-kind donations are received in a later reporting period, it is understood that the Schedule H3 entry will not be able to list the related Schedule H4 donor entries (showing the nonfederal "disbursement" of the donations).

## DISBURSEMENT OF IN-KIND DONATIONS; FEDERAL TRANSFER (H4)

DISBURSEMENT SCHEDULE H4 FORM H4-1 (1996)		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE 1 OF 1 FOR LINE 24	
NAME OF CONTRIBUTOR State Party Committee					
A. FULL NAME, MAILING ADDRESS & ZIP CODE XYZ Printing Incorporated 9100 Pine Street City, State ZIP	PURPOSE/Event Invitations for July Fundraiser	DATE 7/1/96	TOTAL AMOUNT \$5,000.00 in-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$5,000.00
OTHER: <input type="checkbox"/> ADMINISTRATIVE/OTHER DONOR <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> DIRECT CANDIDATE SUPPORT TOTAL DISBURSEMENT: 15,000.00					
A. FULL NAME, MAILING ADDRESS & ZIP CODE Ballou's Inc. 887 Oak Street City, State ZIP	PURPOSE/Event Ballou's for July Fundraiser	DATE 7/18/96	TOTAL AMOUNT \$1,000.00 in-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$1,000.00
OTHER: <input type="checkbox"/> ADMINISTRATIVE/OTHER DONOR <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> DIRECT CANDIDATE SUPPORT TOTAL DISBURSEMENT: 16,000.00					
C. FULL NAME, MAILING ADDRESS & ZIP CODE State Party Committee/ Nonfederal Account 645 Democracy Blvd. City, State ZIP	PURPOSE/Event Transfer of federal share (see A and B above)	DATE 7/1/96	TOTAL AMOUNT \$2,000.00	FEDERAL SHARE \$2,000.00	NON-FEDERAL SHARE 0
OTHER: <input type="checkbox"/> ADMINISTRATIVE/OTHER DONOR <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> DIRECT CANDIDATE SUPPORT TOTAL DISBURSEMENT: 0					

The first two entries on this schedule provide information on the in-kind donations received and "disbursed" by the nonfederal account. The third entry shows that the federal account's 50 percent share of the donations was transferred to the nonfederal account on July 1. The entry cross references the related entries.